

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

ARLEEN KOSAK, individually and  
on behalf of others similarly situated,

*Plaintiff,*

v.

NEW YORK MEDIA HOLDINGS,  
LLC,

*Defendant.*

Case No. 2:22-cv-11850  
Hon. Matthew F. Leitman

Magistrate Judge Elizabeth A.  
Stafford

**DEFENDANT NEW YORK MEDIA HOLDINGS, LLC’S  
MOTION FOR LEAVE TO FILE RESPONSE  
TO NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant New York Media Holdings, LLC (“NYMH”) respectfully moves the Court for leave to file a response to Plaintiff’s Notice of Supplemental Authority (the “Notice”), filed July 27, 2023 (ECF No. 27).

1. In her Notice, Plaintiff encloses *Gottleben v. Informa Media, Inc.*, No. 1:22-cv-866 (W.D. Mich. July 7, 2023) and *Schreiber v. Mayo Foundation for Medical Education and Research*, No. 2:22-cv-188 (W.D. Mich. July 13, 2023) and implies that this Court should find the holdings in these actions persuasive here.

2. In view of Plaintiff’s arguments that the allegations in *Gottleben* and *Schreiber* are similar to those alleged here, Plaintiff would be given an unfair advantage if NYMH was not permitted to provide an answer. NYMH respectfully

seeks leave to submit a response to Plaintiff's Notice. The proposed Response to Notice of Supplemental Authority is attached hereto as Exhibit A.

3. Pursuant to Local Rule 7.1(a), Defendant's counsel certifies that on July 28, 2023, they communicated with Plaintiff's counsel, explaining the nature of the relief sought in this Motion and seeking concurrence in that relief. Plaintiff had not responded at the time of filing.

Dated: July 28, 2023

Respectfully submitted,

/s/ Kristen C. Rodriguez

Kristen C. Rodriguez

Deborah H. Renner

DENTONS US LLP

1221 Avenue of the Americas

New York, New York 10020

(212) 768-6700

[kristen.rodriguez@dentons.com](mailto:kristen.rodriguez@dentons.com)

[deborah.renner@dentons.com](mailto:deborah.renner@dentons.com)

Peter B. Kupelian (P31812)

Carol G. Schley (P51301)

CLARK HILL PLC

151 South Old Woodward Ave., Suite 200

Birmingham, MI 48009

(248) 530-6336

[pkupelian@clarkhill.com](mailto:pkupelian@clarkhill.com)

[cschley@clarkhill.com](mailto:cschley@clarkhill.com)

*Counsel for Defendant*

*New York Media Holdings, LLC*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

ARLEEN KOSAK, individually and  
on behalf of others similarly situated,

*Plaintiff,*

v.

NEW YORK MEDIA HOLDINGS,  
LLC,

*Defendant.*

Case No. 2:22-cv-11850  
Hon. Matthew F. Leitman

Magistrate Judge Elizabeth A.  
Stafford

**BRIEF IN SUPPORT OF DEFENDANT  
NEW YORK MEDIA HOLDINGS, LLC'S  
MOTION FOR LEAVE TO FILE RESPONSE  
TO NOTICE OF SUPPLEMENTAL AUTHORITY**

## **STATEMENT OF ISSUES PRESENTED**

1. Whether NYMH should be granted leave to file a response to Plaintiff's arguments in her Notice of Supplemental Authority?

Defendant's Answer: Yes.

## **STATEMENT OF CONTROLLING/MOST APPROPRIATE AUTHORITY**

The controlling and most appropriate authority for this Motion includes:

1. *United States v. Van*, No. 06-20491, 2021 WL 4962139 (E.D. Mich. Oct. 26, 2021).
2. *Tokarczyk v. A.G. Edwards & Sons, Inc.*, No. 08-12481, 2009 WL 1025392 (E.D. Mich. Apr. 15, 2009).
3. *Gottsleben v. Informa Media, Inc.*, No. 1:22-cv-866, ECF No. 51 (W.D. Mich. July 7, 2023).
4. *Schreiber v. Mayo Found. for Med. Educ. and Res.*, No. 2:22-cv-188, ECF No. 45 (W.D. Mich. July 13, 2023).

Defendant New York Media Holdings, LLC (“NYMH”) respectfully seeks leave to submit a response to Plaintiff’s Notice of Supplemental Authority (the “Notice”), filed July 27, 2023 (ECF No. 27).

### **ARGUMENT**

In her Notice, Plaintiff encloses and implies that the Court should follow two recent decisions: *Gottsleben v. Informa Media, Inc.*, No. 1:22-cv-866, ECF No. 51 (W.D. Mich. July 7, 2023); and *Schreiber v. Mayo Foundation for Medical Education and Research*, No. 2:22-cv-188, ECF No. 45 (W.D. Mich. July 13, 2023).

Plaintiff claims the allegations in *Gottsleben* and *Schreiber* are “similar to Plaintiff’s allegations here” (PageID.1866), suggesting that the Court should find the holdings in those cases persuasive. This baseless assertion, if left unanswered, would provide Plaintiff an unfair advantage. Defendant respectfully seeks leave to submit a response to Plaintiff’s Notice. *See, e.g., Tokarczyk v. A.G. Edwards & Sons, Inc.*, No. 08-12481, 2009 WL 1025392, at \*1 n.1 (E.D. Mich. Apr. 15, 2009) (denying a motion to strike a response and notice of supplemental authority but granting the opportunity to file a supplemental pleading to address newly raised arguments and caselaw); *United States v. Van*, No. 06-20491, 2021 WL 4962139, at \*2 (E.D. Mich. Oct. 26, 2021) (allowing defendant to file a response to a notice of supplemental authority concerning an opinion entered after briefing to argue new opinion was wrongly decided); *Smith v. Stellar Recovery, Inc.*, No. 15-cv-11717, 2017 WL

1336075, at \*8 (E.D. Mich. Feb. 7, 2017) (allowing defendant to respond to plaintiff's notice of supplemental authority). The proposed Response to Notice of Supplemental Authority is attached hereto as Exhibit A.

### CONCLUSION

For the foregoing reasons, NYMH respectfully requests that it be granted leave to file a response to Plaintiff's Notice of Supplemental Authority.

Dated: July 28, 2023

Respectfully submitted,

/s/ Kristen C. Rodriguez

Kristen C. Rodriguez

Deborah H. Renner

DENTONS US LLP

1221 Avenue of the Americas

New York, New York 10020

(212) 768-6700

[kristen.rodriguez@dentons.com](mailto:kristen.rodriguez@dentons.com)

[deborah.renner@dentons.com](mailto:deborah.renner@dentons.com)

Peter B. Kupelian (P31812)

Carol G. Schley (P51301)

CLARK HILL PLC

151 South Old Woodward Ave., Suite 200

Birmingham, MI 48009

(248) 530-6336

[pkupelian@clarkhill.com](mailto:pkupelian@clarkhill.com)

[cschley@clarkhill.com](mailto:cschley@clarkhill.com)

*Counsel for Defendant*

*New York Media Holdings, LLC*

**Certificate of Service**

I hereby certify that on July 28, 2023, a copy of the foregoing document was filed electronically and served by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing.

/s/ Kristen C. Rodriguez  
Kristen C. Rodriguez